

MONTANA LEGISLATIVE HISTORY

Chapter 21 1965

Bill H B104 S _____ Original bill & history ____C

H. Committee on TOWNSHIP & CITIES

Hearing Date(s) 1/20 ____C

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Date Out 1/20 ____C

S. Committee on IRRIGATION & WATER

Hearing Date(s) 2/8 ____C

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____C

2/8 Date out

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

INTRODUCED BY LEUTHOLD, STRANAHAN, MECCAGE, SCHEPENS

89-2913

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME TO FILE A DECLARATION OF VESTED GROUND WATER RIGHTS, AND AMENDING SECTION 3, CHAPTER 237, LAWS OF 1961, COMPILED AS SECTION 89-2913, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 3, Chapter 237, Laws of 1961, Compiled as section 89-2913, R.C.M. 1947 is amended to read as follows:

"89-2913. (a) The administrator shall prepare and publish forms for the filing by appropriators with the county clerks. They shall be known as a "notice of appropriation" and a "notice of completion," respectively. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of ground water claimed; (4) the annual period (inclusive dates) of intended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

The notice of completion shall require answers to the same sort of questions as required for the notice of appropriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

For the benefit of persons obtaining (or desiring to obtain) ground water without a well (as by subirrigation and other natural processes) a specially prepared "notice of completion" shall be provided, enabling such persons to describe the means of using ground water and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

(b) On and after January 1, 1962, any person desiring to appropriate ground water may complete a notice of appropriation and file it with the county clerk of the county in which the appropriation is located.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion, file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of ground water instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act in so far as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation in such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the state of Montana.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

(h) Persons who have put ground water to a beneficial use, including subirrigation or other natural process, prior to January 1, 1962, shall, within ~~two-(2)~~ four (4) years after January 1, 1962, file a declaration in the office of the county clerk of the county in which the claimed right is situated. The declaration shall be made on a form known as a "declaration of vested ground water rights" and shall contain the following information: (1) the name and address of the claimant; (2) the beneficial use on which the claim is based; (3) the date or approximate date of the earliest beneficial use, and how continuous the use has been; (4) the amount of ground water claimed; (5) if the beneficial use has been for irrigation, the acreage and description of the lands to which such water has been applied and the name of the owner thereof; (6) the means of withdrawing such water from the ground and the location of each well or other means of withdrawal; (7) the date of commencement and completion of the construction of the well, wells or other works for withdrawal of ground water; (8) the depth of water table; (9) so far as it may be available, the type, size and depth of each well or the general specifications of any other works for the withdrawal of ground water; (10) the estimated amount of ground water withdrawn each year; (11) the log of the formations encountered in the drilling of each well; and (12) such other information of a similar nature as may be useful in carrying out the policy of this act.

The county clerk shall transmit copies to the office of the administrator, and the bureau of mines and geology. The administrator shall attend to filing copies in any other counties affected by the appropriation.

The declaration of vested ground water rights herein provided for shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded rights. Provided, however, that persons

who have filed the water well log form, provided for in sections 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction or for the entry of material facts necessary to fully complete the filing.

HOUSE COMMITTEE OF TOWNSHIP & CITIES

<u>No. of Bill</u>	<u>Subject Matter</u>	<u>Author</u>	<u>Do Pass</u>	<u>Do Not Pass</u>	<u>Assigned to Sub-Committee</u>
H.B. 1104 ✓	Extending time to file Declaration of Vested Ground Water Rights.	Leuthold, Stranahan Meccage, Schepens	Do Pass		
H.B. 111 ✓	Co. Commissioners may pay proper charges for insurance for any Co. officer against loss of money, securities, etc.	Healy, Crum, Smiley Lombardi, Tracy Shugrue, McNamara	Do Pass		
H.B. 128 ✓	To provide for payment of medical services, etc. for prisoners.	O'Hair, Meccage, Garrison, Nutting	Do Pass		
H.B. 132 ✓	To make Co. Attorneys Counsel for Fire Districts in rural districts.	Haines	Do Pass		
H.B. 144 ✓	Co. Commissioners power to levy annual tax on property of County to defray current expenses.	Schepens, Meccage Gerke and Jensen	Do Pass		
H.B. 146 ✓	Providing for reimbursement to Counties for loss of revenue because of tax exempt status of State-owned land.	Lund, Stranahan, James	Do Pass		
H.B. 148 ✓	Placing exclusive control of all highways bridges and causeways in Counties having total registered vote of 15,000 in the Co. Surveyor.	McNamara & Delano		Do Not Pass	
H.B. 149 ✓	Authorizing tax levy of 2 mills for Reclassification of all taxable lands & improvements by authorizing levy of not to exceed 1 mill.	Bardanouve & Lucas	Do Pass		

IRRIGATION AND WATER

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TOWNSHIPS AND COUNTIES

January 20, 1965 - Meeting at 12:30 PM - 1st Meeting

The first meeting of the Townships and Counties Committee was held at 12:30 PM with Chairman Twedt presiding and with a quorum present. Mr. John Leuthold was present also.

Chairman Twedt stated that the Committee now has 8 printed Bills. He further said that if agreeable they would meet about 12:30 PM, and that if this is not workable, they can decide on another time.

The Chairman then took up House Bill No. 104, at which time Mr. John Leuthold, Representative of Stillwater County and principal author of the Bill, introduced himself and explained the Bill.

At the conclusion Chairman Twedt asked if there were any questions, after which there was a discussion by Messrs. Asbjornson Leuthold, Twedt and Hanks as to the word "shall" in paragraph 7 of Page 2.

Chairman Twedt then stated that if no further questions, the Committee would take up action on H.B. 104. It was moved by Representative Meccage that it pass. It was seconded by Representative Asbjornson. The Chairman asked if there were any further discussion, which there was not, so the Bill was unanimously passed.

The Chairman then read House Bill No. 111. He then stated that Mr. Healy has one or two persons who want to testify on this, and that if he could be here on Friday the Committee will explain this Bill. Here followed a brief discussion re. the Bill by Chairman Twedt, Reps. O'Hair, Asbjornson and others. Then it was agreed to take up this Bill on Friday.

Rep. Twedt then read H. B. 128. Chairman Twedt then asked Rep. O'Hair if it would be alright with him if they took up this Bill on Friday; he also asked if he would want to give a little background on the Bill. Rep. O'Hair explained the Bill.

Chairman Twedt next took up H.B. 132, reading it and explaining it.

TOWNSHIPS & COUNTIES
1965

Date	1-16	1-22	1-25	1-27	1-29	2-1	2-3	2-5	2-5	2-5	2-8	2-10	2-12	2-17	2-19	2-21	2-23	2-25	2-27	2-29
<u>Chairman</u>																				
Twedt, Gordon R. (Hill)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<u>Vice-Chairman</u>																				
O'Hair, Allyn W. (Park)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Gill, Henry L. (Sanders)	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a
Hanks, Virgil (Gallatin)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Holtz, Ronald W. (Cascade)	✓	a	a	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Aasheim, Magnus (Sheridan)	a	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Meccage, A. L. (Fallon)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sartz, Leonard L. (Wibaux)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nefzger, Donald D. (McCone)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Asbjornson, J.O. (Fergus)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nutting, Richard A. (Carbon)	✓	a	✓	✓	a	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Felt, James R. (Yellowstone)	a	a	✓	✓	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a
Spilde, Gene (Sweet Grass)	a	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Smith, Carl M. (Powder River)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rehberg, Jack D. (Mellowstone)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Helena, Montana
February 8, 1965,

A meeting of the Committee on Irrigation and Water was called to order at 11:30 a.m. on February 8, 1965, in Room 407, by Chairman Senator Gordon McGowan with the following members present:

Senators McGowan, Cotton, Groff, Harris, Balgord, Breen, Gerard and Turnage

The following were present:

Joe Wold, Secretary-Treasurer Laurel Ditch Company
Senator Gene Huntley, Sponsor of Senate Bill No. 136
James F. Neely, Executive Secretary - Oil & Gas Commission

Opponents:

James H. Walsh, Manager, Rocky Mountain Oil and Gas Association
Eldon A. Davenport, Petroleum Consultant

House Bill No. 104 was discussed.

Senator Robert S. Cotton made a motion that House Bill No. 104 BE CONCURRED IN. Senator Wm. A. Groff seconded the motion. Motion carried.

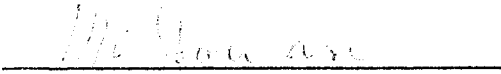
Senate Bill No. 136 was discussed.

Senator Sumner Gerard made a motion that Senate Bill No. 136 DO NOT PASS. Senator Jerry W. Breen seconded the motion. Motion carried.

House Bill No. 308 was discussed.

Senator Jean A. Turnage made a motion that House Bill 308 BE CONCURRED IN AS AMENDED. Senator Wm. A. Groff seconded the motion. Motion carried.

There being no further business to come before the Committee Senator Groff moved that the meeting be adjourned.


Chairman

recorded on the damaged or defective ballot and shall be counted in lieu of the damaged or defective ballot.

Printed return.

(d) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public.

Secretary of state may promulgate rules.

Section 7. (a) The secretary of state may promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

Requirements.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

Secrecy.

(1) It shall permit and require voting in absolute secrecy.

Voting.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one party or to vote a split ticket as he desires.

Presidential elections.

(3) It shall permit each elector, at presidential elections, by one punch or mark to vote for the candidates of that party for presidential elector as a group.

Election laws.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

Penalties.

Section 8. All laws of this state applicable to elections where voting is done in another manner than by electronic voting systems and all penalties prescribed for violation of such laws, shall apply to elections and precincts where electronic voting systems are used, in so far as they are not in conflict with the provisions of this act.

Approved February 13, 1965.

CHAPTER 21

An Act Extending the Time to File a Declaration of Vested Ground Water Rights, and Amending Section

3, Chapter 237, Laws of 1961, Compiled as Section 89-2913, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3, chapter 237, laws of 1961, compiled as section 89-2913, R. C. M. 1947, is amended to read as follows:

Amending clause.

"89-2913. (a) The administrator shall prepare and publish forms for the filing by appropriators with the county clerks. They shall be known as a 'notice of appropriation' and a 'notice of completion', respectively. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of ground water claimed; (4) the annual period (inclusive dates) of intended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

Forms for filing.

Notice of appropriation.

The notice of completion shall require answers to the same sort of questions as required for the notice of appropriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

Notice of completion.

For the benefit of persons obtaining (or desiring to obtain) ground water without a well (as by subirrigation and other natural processes) a specially prepared 'notice of completion' shall be provided, enabling such persons

Special notice of completion—where no well.

to describe the means of using ground water and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

Notice of appropriation filed with county clerk.

(b) On and after January 1, 1962, any person desiring to appropriate ground water may complete a notice of appropriation and file it with the county clerk of the county in which the appropriation is located.

Clerk shall transmit copies.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

Well construction must commence within 90 days.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion, file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

Notice of completion filed with county clerk.

Effect—failure to file.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of ground water instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

Relation back.

Filing under oil and gas laws deemed compliance.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act in so far as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation in such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the state of Montana.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

Driller responsible.

(h) Persons who have put ground water to a beneficial use, including subirrigation or other natural process, prior to January 1, 1962, shall, within *four (4)* years after January 1, 1962, file a declaration in the office of the county clerk of the county in which the claimed right is situated. The declaration shall be made on a form known as a 'declaration of vested ground water right' and shall contain the following information: (1) the name and address of the claimant; (2) the beneficial use on which the claim is based; (3) the date or approximate date of the earliest beneficial use, and how continuous the use has been; (4) the amount of ground water claimed; (5) if the beneficial use has been for irrigation, the acreage and description of the lands to which such water has been applied and the name of the owner thereof; (6) the means of withdrawing such water from the ground and the location of each well or other means of withdrawal; (7) the date of commencement and completion of the construction of the well, wells or other works for withdrawal of ground water; (8) the depth of water table; (9) so far as it may be available, the type, size and depth of each well or the general specifications of any other works for the withdrawal of ground water; (10) the estimated amount of ground water withdrawn each year; (11) the log of the formations encountered in the drilling of each well; and (12) such other information of a similar nature as may be useful in carrying out the policy of this act.

Declaration of vested ground-water rights filed when.

Form.

The county clerk shall transmit copies to the office of the administrator, and the bureau of mines and geology. The administrator shall attend to filing copies in any other counties affected by the appropriation.

Clerk shall transmit copies.

The declaration of vested ground water rights herein provided for shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Evidence.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded

Effect of noncompliance.

rights. Provided, however, that persons who have filed the water well log form, provided for in sections 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction or for the entry of material facts necessary to fully complete the filing."

Approved February 18, 1965.

CHAPTER 22

An Act to Amend Section 69-1802, Revised Codes of Montana, 1947, to Include Boarding and Nursing Homes for Aged Persons in Those Buildings Covered by the Provisions of Chapter 18 of Title 69, Revised Codes of Montana, 1947, Relating to Fire Safety Requirements and Inspection.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-1802, Revised Codes of Montana, 1947, be amended to read as follows:

Application of act.

"69-1802. **Application of act.** This act shall apply to hotels, night clubs, boarding or rooming houses, apartments, dormitories, office buildings, theaters, gymnasiums, any place of public amusement or used for public gatherings, colleges, schools, stadiums, amphitheaters, factories, hospitals, *boarding and nursing homes for aged persons*, motor courts, tourist inns, cabins, asylums, sanitariums, and all other places where large numbers of persons work, sleep, live, or congregate from time to time for any purpose but not to private residences."

Effective immediately.

Section 2. This act shall take effect and be in full force from and after its passage and approval.

Approved February 18, 1965.

CHAPTER 23

An Act to Amend Section 84-429.8, R. C. M. 1947, Which Authorized a Tax Levy of Two (2) Mills for a State-wide Reclassification and Reappraisal of All Taxable